

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on January 25, 1999 at 9:00 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 184, 1/25/1999; SB 205,  
1/25/1999; SB 206, 1/25/1999  
Executive Action: None

**HEARING ON SB 184**

**Sponsor:** SENATOR LORENTS GROSFIELD, SD 13, BIG TIMBER

**Proponents:** Ralph Peck, Department of Agriculture  
Fred Elling, Director, Wheat and Barley Committee  
Bob Stephens, Montana Grain Growers Association

**Opponents:** Gordon Morris, Director, Montana Association of Counties

**Opening Statement by Sponsor:**

**SENATOR LORENTS GROSFIELD, SD 13, Big Timber,** introduced **SB 184** as a bill to bring the Code into compliance with **CI-75** in regard to levies. The concept of **SB 184** is approved by the select committee on **CI-75**; however, this bill as written is not approved by that committee because it doesn't have a contingent avoidance language in it. That committee decided that it would not approve any bills that did not have the contingent avoidance language in it.

**Sen. Grosfield** gave a short history of what has brought the legislature to this point. He said that in 1986 the voters in this state were very frustrated and they decided to give the Legislature **I-105**. They said, "You have not listened to us," and they voted in a property tax freeze. A few years later, the voters were still frustrated. "The Legislature is not listening, and we want you out of there," so they put on term limits. "That gives you just a few years to get it done and then you're gone." A few more years went by, and the voters were still frustrated. They felt that the Legislature was not responding and they voted in **CI-75**.

**SEN. GROSFIELD** handed out copies of **CI-75 EXHIBIT (tas19a01)**. He said he believes that **CI-75** will be found unconstitutional by the Supreme Court because it was not honestly presented to the voters and should not be a part of the Constitution. However, he said if it is found to be unconstitutional, there will be a backlash from the voters because they are frustrated and want something done. He said the Legislature needs to respond to the frustration of the voters in a decisive manner this session.

**SEN. GROSFIELD** then passed out a flier **EXHIBIT (tas19a02)** that appeared as an insert in his hometown weekly newspaper. It was also sent out en masse as a bulk mailing. It is not attributed to any person or organization, and is full of inaccuracies, but it does reflect the frustration of the voters of Montana. He said he intends

**SB 184** to respond to **CI-75** if it is not declared invalid, or to respond to **CI-75** sentiment if it is declared invalid.

**SEN. GROSFIELD** said that there's another problem out there, and that's **SB 195** and the Roosevelt decision. **Senate Bill 195** was ruled unconstitutional by a lower court, and if the Supreme Court affirms that decision, then we may have a big problem. He said this bill is one vehicle to address that crisis. This bill contains all property tax levies that are levied by units of

government, and it will be easy to fashion this bill to respond to a Roosevelt decision. **SEN. GROSFIELD** said nobody in this legislature wants an extreme property tax rise corresponding to the assessment increases that will be employed if the Roosevelt decision determines **SB 195** unconstitutional.

Referring to **SB 184**, **SEN. GROSFIELD** said the whole bill is in Section 1. The rest of the bill refers to the various levies, and each one says, "Regarding this levy, regarding that levy, refer to Section 1." He referred the committee to page 2 of Section 1, which says that a governmental entity authorized to impose a levy has to calculate that levy consistent with **CI-75**. The way that is done is to look at the amount actually collected in the governmental unit in the prior year. He pointed out that on line 11, it refers to a "government entity" and on line 13 it refers to a "governmental unit." He said that's an important distinction because, for example, the county commissioners are authorized to impose a levy, but it may be a levy for a different governmental unit.

**SEN. GROSFIELD** said that number (3) deals with the refund. It says that anything not attributable to (a) through (e) has to be refunded. Those five items are specific in **CI-75**, (a) for an improvement, (b) from property being moved into the area, (c) if the boundary is being extended, (d) are levies authorized by the voters, or (e) are bonds authorized by the voters. However, any refund must be prorated to all property taxpayers and must include an amount for interest on the excess at the rate of 10% a year.

**SEN. GROSFIELD** pointed out two repealers in **SB 184** that deal with a couple of statutes that are currently on the books that address limitations in property taxes because **CI-75** goes way beyond those two statutes. He said the current property tax limitations are found in Title 15, Chapter 10, Part 4, and that is the **I-105** part of the statute. One of the repealers goes to 15-10-412, which talks about limiting the amount of taxes under **I-105**, but then it goes on to say that the limitation "does not prohibit an increase as a result of," then there is a list. Some of the things are included in **CI-75**, but this list goes way beyond **CI-75** and allows all kinds of other exclusions and has led to the voter frustration that we need to respond to even if **CI-75** falls.

**SEN. GROSFIELD** said that the Wheat and Barley Committee will introduce some amendments which he supports. Those amendments will nullify almost all of the fiscal note. He said it will nullify numbers 1, 2, 3, 4, 5, 6, and 7. It does not nullify number 8, but does nullify number 1 under the long-range impacts, and numbers 2 and 3 of the technical notes, numbers 2 and 3.

There's also one other small amendment that **SEN. GROSFIELD** said he would like the committee to consider. On page 2, line 14, the bill reads, "A governmental entity shall apply the levy calculated pursuant to subsection (1)," and he would like to amend it to read, "shall apply a levy up to the levy calculated," because a local government cannot decrease under any circumstances the amount from the previous year, and he feels that local governments need to have that option if they desire.

In summary, **SEN. GROSFIELD** said this bill requires each governmental entity with the authority to set levies to set them according to the restrictions and also the exceptions in **CI-75**. He said that if Roosevelt declares **SB 195** invalid, we need the bill; if **CI-75** is declared invalid, we need the bill; if **CI-75** is declared valid, we need the bill. He said this legislature needs to respond to voter frustration, and he feels this bill will do that.

**Proponents' Testimony:**

**Ralph Peck, Department of Agriculture**, said he appreciated **SEN. GROSFIELD'S** working with the Montana Wheat and Barley Committee in preparing some amendments **EXHIBIT(tas19a03)**. Basically, he said in talking about **CI-75**, the wheat and barley assessment was based on mills in the statute which were levied. The assessment was basically interpreted to be part of Section 1 of **SB 184**. He said that if the verbiage pertaining to mills and levy was changed to a fee assessment, the wheat and barley assessment would be considered a fee and not subject to Section 1. That's what this amendment would do, which would resolve the fiscal note impacts and satisfy the requirements of **CI-75**.

**Fred Elling, Rudyard**, said he's a wheat and barley producer and **Director of the Montana Wheat and Barley Committee, District 2**. He said the Wheat and Barley Committee, along with the farmers that it represents, requests that the Senate Committee on Taxation concur with **SEN. GROSFIELD'S** amendment to remove the wheat and barley committee from requirements of Section 1, **SB 184**. He read, "The fees collected for use by the wheat and barley committee are not property taxes. They are a refundable assessment paid by the producers for the purpose of market development and research." **SEN. GROSFIELD'S** amendment makes the minor changes to the committee enabling legislation that more accurately reflects our program, intent and purpose. He provided a written copy of his testimony **EXHIBIT(tas19a04)**.

**Bob Stephens, Montana Grain Growers Association**, said his organization supports **SB 184**, providing it has the wheat and barley commission amendment.

**Opponents' Testimony:**

**Gordon Morris, Director, Montana Association of Counties**, said he agreed with almost everything **SEN. GROSFIELD** has indicated in terms of what is going on out there and the political and economic environment of our state. Unfortunately, he said, **SB 184** is full of problems for local governments, for counties. He said that under the auspices of this bill, if it were passed, local governments would be so crippled that they would discontinue functioning as they do now. He said he didn't have any solutions for **CI-75** or **SB 195**, but he said that the local governments, counties in particular, are not the problem. He said **I-105** already limits counties from the standpoint of increasing taxes without a vote of the people, and **SB 184** is even more restrictive.

**Mr. Morris** said he believes that **CI-75** was a warning shot. He doesn't think that this legislature is going to be able to leave Helena in April without having addressed the real problems with Montana's tax system. He said what needs to be done is to overhaul the tax system from top to bottom.

**Questions from Committee Members and Responses:**

**SEN. GLASER** said that it appears that the counties don't like **CI-75** and believe that it will be thrown out. He asked **SEN. GROSFIELD** how he thought the public would respond if something like **SB 184** is not enacted. **SEN. GROSFIELD** said he thought that **CI 76** would soon follow. He said a lot of people have frustration with **CI-75** for a lot of different reasons, but it is part of our law. It is part of our Constitution until it's declared null and void, or until the people vote it out.

**SEN. ELLINGSON** said **SEN. GROSFIELD** he felt had spoken harshly about **CI-75**, but that **SB 184** by statute incorporates close to the same features of **CI-75** into statutory law. He asked what it is about **SB 184** that makes it preferable to the initiative that was passed by the voters. **SEN. GROSFIELD** said that what this bill does is implement the initiative with respect to levies. **SEN. ELLINGSON** said he perceived that **SEN. GROSFIELD** had drafting problems with **CI-75** but not conceptual problems and that this bill addressed those kinds of drafting and implementing problems, and **SEN. GROSFIELD** said that was not accurate. He said he has all kinds of problems with **CI-75**, but it is the law and we have

to respond to it. This bill does not implement all of **CI-75**, just one small portion that deals with levies.

**SEN. ELLINGSON** then said he understood that **SEN. GROSFIELD** does not like **CI-75** but that he is recognizing that it is the law and so this bill is offered to simply implement what he understands the voter sentiment to be. **SEN. GROSFIELD** said it was not what he understood the voter sentiment to be, it's what he understands the clear language of **CI-75** to say. He said he had other ideas about voter sentiment, because if **CI-75** falls, we still have to deal with that voter sentiment.

**SEN. ELLIS** said **Gordon Morris** had made the point that local governments are not the problem, and that counties hadn't taken advantage of increased valuations, but he asked **Mr. Morris** if they hadn't actually done exactly that until **SB 195** was passed. **Mr. Morris** responded that the suggestion that as a result of cyclical reappraisal, referring to 1993 in particular, and higher values in 1993 and headed off, as it were, in 1996, the counties took a windfall, and that that is, based upon his understanding of county budgets adopted in FY 94, absolutely wrong. He said he has shown the analysis of the levies that were imposed in FY 94 compared to FY 93 as a result of cyclical reappraisal, which demonstrated that every increase was identified in every instance with a vote of the people.

**SEN. ELLIS** then asked **Dennis Burr** about RSIPs, RIPS and SIDs and whether they would really be affected by this legislation if these taxing jurisdictions agree to be taxed, although maybe not with a vote, prior to the institution of the tax, and **Mr. Burr** said he believed that's correct. He said a rural improvement district can decide that they want to be assessed a certain amount of money for a specific purpose, and it may not require a vote now, but probably a certain number of property owners must sign a petition to do that. However, with **CI-75**, it requires a vote if you're going to increase revenue or increase a tax or a fee. He said **Mr. Morris** is probably right that it's more cumbersome for local governments to have to do that, but he said he believes that's what **CI-75** requires them to do.

**SEN. DEPRATU** complimented **SEN. GROSFIELD** on the work in **SB 184**, and said that he agreed with him in that should **CI-75** be turned over by the courts, if the legislature hasn't responded, there will be a much harsher backlash from the public than what we've already had. He said the people have spoken and it's the duty of the legislature to do the best it can to implement it. He said he had a technical question regarding the refund mechanism which specifies 10% interest, which is a higher rate than can presently be earned, and whether it could be changed to a rate that

wouldn't be a cost back to the taxing jurisdiction, perhaps at least a breakeven figure. **SEN. GROSFIELD** said that **CI-75** specifies 10%, so it's got to be 10% because it's in the Constitution.

**SEN. ELLIS** said that **Gordon Morris** had testified that this didn't deal with revaluation, but he asked if, in fact, the refund deals with changes in valuations in property. **SEN. GROSFIELD** responded that that was correct, that (a) through (e) are the specific exclusions authorized within **CI-75** almost verbatim. Revenue from those kinds of sources does not trigger the refund provision. **SEN. ELLIS** asked if it does so in a manner that it doesn't shift between taxpayers, but just redistributes the money back. **SEN. GROSFIELD** said that is what **CI-75** says and what **SB 184** says.

**SEN. STANG** then asked **SEN. GROSFIELD** if he had looked at **HB 108** that **REP. SWANSON** is carrying from the Interim Property Tax Committee, and **SEN. GROSFIELD** said he had not. **SEN. STANG** said that the provisions of that bill are similar to the provisions of **SB 184**, and perhaps they could be combined to accomplish the same thing. **SEN. GROSFIELD** said he would take a look at that.

**Closing by Sponsor:**

**SEN. GROSFIELD** reiterated that this is a serious issue, dealing with **CI-75** but also with the Roosevelt issue, **SB 195**, and that whole area. He said he believes our tax system does need to be overhauled. However, he said that we do need to respond to **CI-75** since it is the law. He agreed that this bill is full of problems for local government. He said **CI-75** is also full of problems for local government, but it is the law. It will result in radical change in the way local governments function, and that is what is required by **CI-75**. He said regardless of what happens with **CI-75**, this legislature still needs to respond to the voters' frustration.

**CHAIRMAN DEVLIN** passed around written testimony by the **Office of Public Instruction** dealing with a possible amendment to **SB 184 EXHIBIT (tas19a05)** which will be dealt with in executive session.

**HEARING ON SB 205**

**Sponsor:** **SENATOR WALTER L. McNUTT, SD 50, SIDNEY**

**Proponents:** **Robert D. Lipscomb, MPA and AOM**  
**Ron Mercer, Montana Aeronautics Division**  
**Jim Currie, Montana Department of Transportation**  
**Jack Gillespie, Montana Pilots Association**

**Martin Hale, Montana Seaplane Association**  
**Wayne Turner, Montana Aviation Trades Association**  
**Rep. Doug Mood, HD 58, Seeley Lake**  
**Frank Bass, Montana Antique Airplanes Association**  
**Gloria Hermanson, on Behalf of Herself**  
**Marilyn Lewis, Montana Flying Farmers**  
**Bill Truax, Experimental Aircraft Association**  
**Bob Gilbert, Aviation of Montana**  
**Bill Sheets, AMAA**  
**Lonnie Leslie, LonAire**  
**Loren Smith, Montana Pilots Association**  
**Rick Griffith, Butte Airport**  
**John Maxness, Exec Air**  
**John Rakenberg, EAS**  
**Bailey Egan, Montana Pilots Association**  
**Miguel Vasconcelos, AOPA**

**Opponents:** **Dexter Busby, Montana Refining**

**Opening Statement by Sponsor:**

**SEN. WALTER McNUTT, SD 50, Sidney,** presented **SB 205** as a bill which is a request for an increase of the aviation fuel tax by \$.01 per gallon. He said that since the Aeronautics Commission was created in 1945, it has been funded by a \$.01 per gallon aviation fuel tax. He said this funding comes from users like general aviation, airlines and the military. He said the Aeronautics Division also receives 1/25th of a cent from the auto fuel tax, and for auto gas used in aircraft.

**SEN. McNUTT** explained that in 1993 an additional \$.02 per gallon was approved. These funds come from general aviation only, not airlines or military, and are earmarked for airport improvement loans and improvement grants. With the loss of the Malmstrom Air Force Base fueling squadron, the program lost about \$125,000 or \$250,000 for the biennium in funding. The purpose of this bill is to replace those funds and make sure that the Aeronautics Division and Commission can continue to operate.

**Proponents' Testimony:**

**Robert D. Lipscomb, Chairman, Aviation Organizations of Montana, Aviation Fuel Tax Task Force,** said that his organizations became aware several years ago of the shortfall the Aeronautics Division was facing in their funding. He said that in November 1997, the Aviation Fuel Tax Task Force was formed. It was made up of ten member aviation organizations in the state of Montana. He reiterated that if funding is not provided for the Aeronautics



Division and Commission by fall of 1999, they will run out of operating reserves. He provided a brochure entitled "Support Montana Aviation" **EXHIBIT (tas19a06)**, and encouraged support of **SB 205**.

**Ron Mercer, Manager of the Helena Airport and Chairman of the Montana Aeronautics Board**, said that Montana has to ensure a good aviation system. He said that aviation system includes not just the seven air carrier airports, but includes the general aviation airports and essential air service airports. He said it is critical that we maintain those.

**Mr. Mercer** went on to say that the Montana Aeronautics Division provides support, leadership, information and training to the various airports. It operates with eight-and-three-quarters employees, and is funded by a \$.01 aviation tax that was adopted in 1945. That funding needs to be increased and this bill accomplishes that.

**Mr. Mercer** expanded on the loan and grant program that's administered by the Montana Aeronautics Division. He said when that was implemented, there were no funds for Aeronautics to manage that program. They used their existing funds. Since it's been implemented, they've leveraged over \$19 million of federal money into the state of Montana that's gone to the small airports throughout the state to improve safety and make improvements. He said this increase in fees is proposed by the aviation groups of Montana, the people that are actually using the system, who want to pay more to keep their system operational.

**Jim Currie, Department of Transportation**, testified that many of the people in the hearing are consumers of the services that are provided by the Aeronautics Division. He said about two years ago a representative group of those consumers came to the Department of Transportation hoping to work out a solution to the revenue shortfall in the funding for Aeronautics. He said **SB 205** is the result of that. **SB 205** is a viable proposal and puts the Aeronautics Division on a sound financial footing for the future. These are consumers that are requesting a bill to tax themselves for the services that they consume, and he urged support for the bill.

**Jack Gillespie, President of the Montana Pilots Association**, said that the Aeronautics Division and Commission are needed by the state of Montana, and aviation is willing to pay for their funding. He urged support of the tax.

**Martin Hale, President of the Montana Seaplane Pilots Association**, said that his people use a lot of the programs and

services provided by the Aeronautics Division. He mentioned specifically the training that is a major benefit to search and rescue. He said the Seaplane Pilots Association is in favor of this legislation.

**Wayne Turner, Montana Aviation Trades Association, Big Sandy,** said his organization supports the \$.01 user tax. He said the Aeronautics Division is very frugal in the use of funds, but funding provided by the 1945 law simply is not meeting present requirements. He recommended passage of **SB 205**.

**Rep. Doug Mood, HD 58, Seeley Lake,** said he has been a pilot for 12 years. He said the services provided to the aviation community by the Aeronautics Division is very important and he urged support of the bill.

**Frank Bass, Montana Antique Airplanes Association and AOM Task Force,** said his organizations are in total support of **SB 205**. He said that it had not been mentioned that the small airports in the state are used for air ambulances, and that is one more reason to support this bill.

**Gloria Hermanson** said she was representing herself as a private pilot and that she had been involved with the Aeronautics Division in some form since the late 1960s. She said that another reason to maintain funding for this division is the work they do with search and rescue, and she urged support for this bill.

**Marilyn Lewis, Montana Flying Farmers,** said that most of the members of her organization live in the rural areas of Montana, and the small airports are very important to them. She said the Aeronautics Division has helped with the upkeep and safety of these small airports.

**Bill Truax, AOM Task Force and the Experimental Aircraft Association, Big Fork,** said that his organizations particularly benefit by the safety and education programs offered by the Aeronautics Division and a hands-on program offered at the annual conference. This year that conference will be held in Butte and that program will be hands-on aircraft building. He said his organization supports the tax increase and encouraged the committee to do so as well.

**Bob Gilbert, Task Force of the Aviation Organizations of Montana, the Montana Aviation Trades Association, and the Association of Aerial Applicators,** all of whom are in support of this issue. He reiterated the important role the Aeronautics Division plays in search and rescue and in maintaining small airports for use by

air ambulances. He provided an Aeronautics division Fact Sheet **EXHIBIT(tas19a07)**, and also turned in written testimony by **Bill Sheets, AMAA, Big Sandy, EXHIBIT(tas19a08)**, and **June Sheets, AMAA, Big Sandy EXHIBIT(tas19a09)**.

**Lonnie Leslie, Miles City**, said he owns and operates an air charter service and is also the search and rescue coordinator for the Miles City District, and Eastern Director for the Montana Pilots Association. He said he has flown to many of the small airports, has been involved in several search and rescue operations, and has attended several of Montana Aeronautics Division search and rescue training sessions. He said he supports this bill. He also provided written testimony **EXHIBIT(tas19a10)**.

**Loren Smith, Great Falls**, said he was impressed with the number of people who are in support of **SB 205**, and reiterated the benefit the Aeronautics Division provides to small airports. He said that the \$.01 for funding provided in 1946 is not enough to run the Division today. He is in support of the bill.

**Rick Griffith, Airport Manager, Butte**, said that everything that airports and pilots do every day is a function of the Aeronautics Division, and he said he supports this bill.

**John Maxness, Exec Air, Helena**, said that his company flies the entire state of Montana at all times of the day or night, and are very aware of the benefits of Aeronautics. He said the airports are adequate, have navigational facilities and wind socks, and these airports are continually progressing with the help of the Aeronautics Division. However, he said in order to maintain the integrity of the infrastructure of airports and navigation throughout Montana, we have to support the Aeronautics Division.

**John Rakenberg, EAS**, said that he is a private pilot and has landed at just about every airport in the state, which would not be possible if the airports did not have the proper equipment, and the Aeronautics Division is to be commended for that. He said there are seven communities in Eastern Montana that are served by central air service, and it is a government program that subsidizes the air carrier to go to those cities. If it hadn't been for a strong Aeronautics Commission, there would not be essential air service in Eastern Montana.

**Bailey Egan, Colstrip**, said he is a pilot and cattle rancher. He said the Aeronautics Division is very important to Montana's pilots, and he urged support of this bill.

**Miguel Vasconcelos, Director, Regional Affairs, AOPA**, submitted written testimony in favor on **SB 205 EXHIBIT(tas19a11)**.

**Opponents' Testimony:**

**Dexter Busby, Montana Refining, Great Falls**, said he would like to support this bill, but he disagrees with the portion of the bill that attempts to tax military fuels. He said if military fuel is provided by an out-of-state or out-of-country supplier, those companies do not have to pay this additional fuel tax, and it makes competitive bidding against these companies more difficult. He asked that the committee consider this in their deliberations.

**Questions from Committee Members and Responses:**

**SEN. ELLIS** asked **SEN. McNUTT** for his response to **Mr. Busby's** testimony in opposition to the bill. **SEN. McNUTT** said that the \$.01 that was started in 1945 did include and has included payments from the military. He said there are military operation areas in the state plus low-level en route flight paths in the state, and this was the military's way of compensating for those areas that were set up for them. He said it is true that the military does not directly write a check for that tax, but that it is in that payment and they do pay it.

**SEN. BOHLINGER** asked **Mr. Gilbert** to describe how these funds are being used to maintain these small airports, and **Mr. Gilbert** answered that probably the most important use of these airports is by air ambulances, which is a service that is essential to rural Montana, and he said the Aeronautics Division is responsible for providing good, year-round, all-weather airports. Also, in many communities the airport provides the only public transportation available, which is a benefit to business.

**SEN. BOHLINGER** then asked about **Mr. Mercer's** statement that through the tax dollar that is collected, the Aeronautics Division can leverage \$19 million of federal monies for the maintenance and improvement of these airstrips. **Mr. Gilbert** answered that that was correct. He said that some of the dollars that flow into the Aeronautics Division, are used for grants to local airports with a 90/10 match, and sometimes that grant is the only money the community has for their airport.

**CHAIRMAN DEVLIN** asked **Mr. Busby** how much money would be involved in the military fuel aspect of the tax if this bill should pass. **Mr. Busby** said that when Malmstrom had their flight wing, it was about \$125,000 a year. However, at this time, it is in the range of \$20,000 to \$30,000.

**SEN. STANG** then asked **Mr. Busby** if the air wing in Great Falls is the only place where aviation fuel is sold to the federal government, and **Mr. Busby** said the contract is for Great Falls and there's another contract for the Army Guard in Helena. **SEN. STANG** then asked if someone from out of state provides the fuel, how it is transported to Montana. **Mr. Busby** said that the government usually provides the transportation, and it's usually by contracted truck. **SEN. STANG** asked if it wouldn't be a savings to buy their fuel locally even with the tax increase, than to pay to transport that from another state, and **Mr. Busby** answered that he couldn't answer for the federal government, but that they presently haul fuel in from both North and South Dakota, as well as Utah, rather than buying it locally. He said his big concern is fuel coming out of Calgary, because some of the contract freight rates are fairly low.

**SEN. STANG** then asked whether these were weekly, monthly or annual contracts, and **Mr. Busby** replied that they are annual contracts. **SEN. STANG** asked if the refinery varies their price to the government as oil prices vary. **Mr. Busby** said that the price of the fuel is tied to a Kansas price of either crude or gasoline or diesel fuel, and then as that varies, they get that plus an increment based on the Kansas price. In other words, if the price of aviation fuel goes up, the price to the government goes up; if it goes down, the price goes down.

**CHAIRMAN DEVLIN** asked **Mike Ferguson, Administrator of the Aeronautics Division, Department of Transportation**, if the entire \$.01 would be going to administration. **Mr. Ferguson** answered that it would be applied to all of the Aeronautics Division programs. He said it would bolster the programs that have been cut and pay administrative fees to operate the Aeronautics Division. **CHAIRMAN DEVLIN** then asked how much of an increase that would be over their present budget, and **Mr. Ferguson** said that the revenue would actually double, so they would get about \$350,000 more. However, 50% of the amount that air carriers pay has to go back to those air carrier airports through grants. **CHAIRMAN DEVLIN** asked if this involves the 90/10 federal matching grant, and **Mr. Ferguson** said that it is for pavement preservation, and the federal government does not allow match for that item because it's maintenance.

**CHAIRMAN DEVLIN** then asked what the purpose of the extra 2.25 FTEs would be. **Mr. Ferguson** answered that the .25 FTE would be to make a current administrative person full time in support of the one FTE that had previously been cut and would now be put back in the safety and education bureau. He said that search and

rescue and aviation education are two of the major functions of that bureau.

**SEN. ELLINGSON** asked **SEN. McNUTT** if he knew what the comparable license taxes are in neighboring states that might be competitors of Mr. Busby. **SEN. McNUTT** handed out a sheet showing the fuel taxes in this area **EXHIBIT(tas19a12)**. He pointed out that Montana is the lowest in the surrounding states by at least one-half cent. **SEN. ELLINGSON** then asked about the provinces, and **SEN. McNUTT** said he didn't know. **CHAIRMAN DEVLIN** asked **Mr. Ferguson** if he knew what that might be, and he said he did not know.

**SEN. ELLINGSON** asked if that information could be provided, and **Mr. Ferguson** said that it could.

**SEN. ELLIS** asked if global position devices are supported by the Aeronautics Division, and **SEN. McNUTT** indicated that that is part of the total program of the Division. He said the state will aid in getting airports selected for a GPS overlayer approach, but that FAA has to put the final approval and documentation out on it. He said that that is a state-of-the-art navigation system and there will be more of those in the near future.

**SEN. STANG** said that when fuel is transported into Montana to gas stations from other states and provinces, they are required to pay the gas tax as it is brought into the state, and asked if aviation fuel that is provided to the federal government is treated the same way. **SEN. McNUTT** said he was not sure.

**CHAIRMAN DEVLIN** asked if **Mr. Currie** could answer that question, and **Mr. Currie** said that for automobile fuel there is the international tax agreement that every state and province belongs to. He said he didn't believe that that extends to aviation fuel, but that he would find out.

**SEN. ECK** said that there hadn't been much opposition to this bill during this hearing, but wondered if opposition had been encountered from other groups, and **SEN. McNUTT** said it had not. He said the only opposition he had encountered was in regard to the military sales. He said he thinks it is universally accepted by aviation that this is the best method of funding the Aeronautics Division, rather than pulling from the General Fund.

**SEN. ECK** then asked **Mr. Mercer** if the aviators would be willing to promote this tax increase when it comes time to sell it to the voters, since it will have to be voted on. **Mr. Mercer** said that this is a group that really works together, and they would be willing to do what is necessary to educate the voters.

**SEN. DEPRATU** asked **Mr. Ferguson** how the Aeronautics Division would be impacted if the military costs of around \$30,000 should not be implemented. **Mr. Ferguson** said that the Aeronautics Division only received \$19,000 last year from the military, but because they are a small agency, it would have an impact.

**Mr. Ferguson** then asked if he could respond to a statement made earlier regarding the military fuel. He said that Langley, Virginia handles the military bidding for fuel nationwide. He said that fuel that is exported from a refinery in Montana is not taxed by Montana, that they only pay the tax on fuel delivered in Montana. He also said that fuel imported into Montana that is already owned by the military is tax exempt as well.

**Closing by Sponsor:**

**SEN. McNUTT** thanked the committee for a good hearing. He said he felt that all segments of aviation in the state had been well represented. He said the committee had heard testimony about what the Aeronautics Division does and how it benefits aviation in Montana, and the willingness across the board of the users of this service to pay the tax. In response to the question about whether the Aeronautics Division could get along without the \$19,000, he said they would rather not. He said he had discussed with Mr. Busby about where the refinery's crude comes from, and he had told him that 80% of it comes from Canada. He said there is no tax or royalty paid on that. **Mr. Busby** had said it is becoming difficult to get crude, and they may not be able to supply the product if that continues. **SEN. McNUTT** then closed by asking the committee to support this bill.

**HEARING ON SB 206**

**Sponsor:** SENATOR WALTER L. McNUTT, SD 50, SIDNEY

**Proponents:** Bob Gilbert, Aviation of Montana

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. McNUTT, SD 50, Sidney**, introduced **SB 206** as the companion bill to **SB 205**, and said that **SB 205** simply states that if **CI-75** continues to exist, this becomes a ballot issue and must be voted on by the public.

**Proponents' Testimony:**

**Bob Gilbert, Aviation of Montana**, assured the committee that when this bill passes and then goes to the voters, the aviation groups in the state of Montana will work to sell this idea to the public and convince them that it is the right thing to do for the citizens of the state.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. DEPRATU** asked **SEN. McNUTT** if he agreed with the fiscal note. with regard to the cost of putting this issue on the ballot. He said the committee had been hearing figures of \$27,000 to \$28,000, and the cost for this bill is set at \$33,000. He wondered if there was a reason for that. **SEN. McNUTT** said he had heard figures from \$28,000 to \$33,700, and that's why he had signed the fiscal note, because he did not know whether it is really known what it is going to cost.

**CHAIRMAN DEVLIN** asked whether the term "to fund airport pavement preservation projects" is really what **SEN. McNUTT** wanted to say to the voters, and **SEN. McNUTT** thanked **CHAIRMAN DEVLIN** for bringing that up. He said there had been an error in the title on the original bill, because it's not just airport preservation, and that that should be amended.

**SEN. GLASER** said that in **SB 228**, which is the voting bill, it divvies up the share of the cost of voting across the state of Montana, and that would influence what the impact would be as to the cost of the vote on this bill. He said that at this particular time, it's impossible to know how many issues are going to be on the ballot and what that cost for each would be.

**SEN. McNUTT** agreed.

**Closing by Sponsor:**

**SEN. McNUTT** had no closing statement.



**ADJOURNMENT**

Adjournment: 10:40 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT** (tas19aad)